

TOWN OF KITTERY, MAINE  
PLANNING BOARD MEETING  
Council Chambers

APPROVED  
February 27, 2014

Meeting called to order at 6:03 p.m.

Board Members Present: Tom Emerson, Karen Kalmar, Mark Alesse, Deborah Driscoll Davis, Susan Tuveson, Ann Grinnell

Members absent: Bob Melanson

Staff: Gerry Mylroie, Planner; Chris DiMatteo, Assistant Planner

Pledge of Allegiance

Minutes:

None available

Public Comment:

Steve Workman, 10 Bridge Street, advocating pedestrian walkways at the Sara Long Bridge. He has participated on all the bridge committees, and noted the Eastern Trail connection. A shared use path outside of the roadway on the upstream side creating safe connections on the Kittery side was proposed. There is a safe connection down the Albacore Parkway on the Portsmouth side to the Market Street Extension, part of the Portsmouth Gateway project. He was concerned the pedestrian use had been excluded from the current design. Following a June 2013 meeting with MDOT staff, a suspended sidewalk was proposed, and stated a shared use path was too costly. This proposed suspended sidewalk would not be next to the rail bed and would be caged. It is now proposed that the suspended walk will be factored into the current design, at approximately \$2 million, for future construction. He discussed various transportation plans under review in Portsmouth. He asked stake holders to reconvene to discuss the MDOT plan to defer the addition of a suspended walk but to consider inclusion in the current bridge design. He asked the Board to support this further level of review and discussion between all parties. Discussion followed regarding the costs of the train beds and total bridge costs.

There was no further public comment.

Public Hearing

**ITEM 1 – Town Code Amendment - Chapter 7, Article 3 Nonconformance, Title 16 Land Use Development Code.** Action: review amendment and make recommendation to Town Council.

*Amendment includes changes to 16.7.3.5.10. Contiguous Non-Conforming Lots* that would allow for more consistent adjustment to lot-lines. Applicants Mary Thron and Ray Arris, Kittery residents.

Public Hearing opened at 6:23 p.m.

David Jones, Attorney, noted the proposed amendment, 16.7.3.5.12, clearly separates lots in and out of the shoreland zone and preserves the common sense approach to expand a lot within the shoreland zone, and urged the Board to adopt the proposed changes.

There was no further testimony. The Public Hearing closed at 6:26 p.m.

Board members discussed the numbering, punctuation and grammar of the proposed amendment. Mr. DiMatteo explained the DEP minimum lot size of 20,000 sq feet in the shoreland zone.

Mr. Emerson requested the changes discussed be highlighted and returned for final review.

Ms. Grinnell moved to continue review of Title 16.7.3 Nonconformance.

Ms. Driscoll Davis seconded

Motion carried by all members present

Mr. Mylroie brought up the MDEP requested revisions to the Shoreland Zones in the 2000 and 2010 orders. Mr. DiMatteo stated this will be on the March agenda for further review.

## **OLD BUSINESS**

### **ITEM 2 – Town Code Amendment – Title 16.7.8 Land Not Suitable for Development.**

Action: review amendment and schedule a public hearing. An amendment to the Town Code to address the applicability of the *Soil Suitability Guide for Land Use Planning in the State of Maine* referenced in Title 16.7.8.1 Locations of Sewage, item 5, which pertains to soils related to septic sewage. The proposed amendment also includes changes to the net residential area calculations.

Earldean Wells, Conservation Commission, noted the following issues relative to proposed language to 16.7.8.1, and Board discussed:

- including view easement exclusion from gross area;
- impact of new FEMA flood plain definitions and rules;
- excluding a percentage of setbacks and buffers from wetlands, streams, ponds, etc. including protection of man-made ponds/wetlands, etc;
- change 'non-residential' to 'commercial';

Mr. Emerson suggested adding a 50% exclusion to setbacks and finalizing following a public hearing.

Members concurred.

Ms. Tuveson moved to schedule a public hearing on this item

Ms. Driscoll Davis seconded

Motion carried by all members present

## **BREAK**

Board members agreed to review Item 5 out of sequence.

### **ITEM 3 – Board Member Items / Discussion**

A. Punch List Item;

Following the Board workshop, it was decided members will determine what items from the punch list will be included on agendas. Mr. DiMatteo explained the inclusion of the determination of completeness segment was brief, in order to move the applicant along. Detailed review of an application will always be on the first meeting of each month. Prioritize punch list items (change name to 'Action List?').

Mr. Emerson explained items directed to staff from the Town Manager or Council is not controlled by the Board, but the Board can determine priority on the punch list. It was recommended such requests submitted to staff be communicated to the Board prior to substantive staff effort. Members discussed sign ordinance revisions and the need for Board input prior to presentation of a final document.

Issues to discuss with Council at workshop:

- Council sponsorship of code amendments;
- Simplify Council reports - Board will prepare;
- Amendment proposals to Council will be reduced to twice each year. Discuss possibility of allowing consideration of emergency amendments.
- Activities in Town (e.g. Economic Development, Quality Improvement, Destination Marketing) that impact Board deliberation. Board members need to be involved in these meetings, and a list of these activities is needed.

- B. Review By-Law changes - Deferred;
- C. Discuss legal issues associated with Waivers; Action TBD;
- D. 'Non-Conforming Structure Replacement outside the Shoreland Zone'; Action TBD;
- E. Other

On the next agenda, the Board will discuss:

- 1. Action item lists,
- 2. Determine priority of items,
- 3. List of standing / advisory committees.

Ms. Kalmar asked to include 16.8.16.9, Flag Lots on the Action List.  
Plan Expiration Period amendment will be included on the next agenda.

**ITEM 4 – Town Planner Items:**

- A. Quality Improvement Plans for Kittery Shore and Harbors - Work in progress.
- B. Sarah Mildred Long Bridge Plan Update Status-Interest in working with NH to add sidewalk.
- C. Town Planning Board Briefing Book. Work in progress by Mr. Mylroie.
- D. Other
  - Branding. (add to Action List)
  - Rotary / Rt. 236 design.

**NEW BUSINESS**

**ITEM 5 – Beatrice Way – Right-Of-Way Plan – Preliminary Plan Completeness Review**

Action: review and accept or deny preliminary plan application and schedule a public hearing. Owner Operation Blessing LP, and applicant Richard Sparkowich, propose a new Right-Of-Way to allow the division of remaining land from the previously approved 3-lot subdivision located between Highpoint Circle and Kittree Lane. The site identified as Tax Map 61 Lot 08, ±65 acres, in the Residential - Rural (R-RL) Zone. Agent is Ken Markley, Easterly Survey Inc.

Ken Markley introduced Jeff Clark, Attorney for Richard Sparkowich, and responded to staff comments. Mr. DiMatteo explained the review needs to determine whether the application is complete to take to a public hearing for review. Mr. Markley explained the review is for a right-of-way plan and not a subdivision plan.

Ms. Kalmar moved to accept the preliminary plan and schedule a public hearing  
Ms. Tuveson seconded  
Motion carried by all members present

Ms. Tuveson moved to adjourn  
Ms. Grinnell seconded  
Motion carried by all members present

The Kittery Planning Board meeting of February 27, 2014 adjourned at 9:06 p.m.  
Submitted by Jan Fisk, Recorder, March 9, 2014